

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

In re:

PROGRESSIVE SERVICES, LLC,

Chapter 11

Case No.:

**Expedited Hearing Requested**

**Estimated Time for Hearing: 15  
Minutes**

Debtor.

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**MOTION FOR AUTHORITY TO MAINTAIN PREPETITION BANK ACCOUNTS**

Debtor, Progressive Services, LLC, by and through its proposed undersigned counsel, pursuant to 11 U.S.C. §§ 105(a) and 363(b), hereby moves the Court for entry of an order authorizing the Debtor to continue use of certain prepetition bank accounts. In support of this Motion, the Debtor states as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

3. The petition in this case was filed on August 24, 2015 (the "Petition Date").

4. The Debtor seeks to maintain postpetition the following prepetition bank account (the "Account"):

FINANCIAL INSTITUTION:	ACCOUNT ENDING IN:	PETITION DATE BALANCE:
TD Bank, N.A. (Oper.)	-1318	\$9,291.30 <sup>1</sup>

Basis for Relief and Relief Requested

5. The Debtor has an automatic payment system for the charge cards used by the Debtor's employees for gas and other supplies. The charge card system is essential to ensuring that jobs get done and the cards are connected to the Account with TD Bank, N.A. ("TD").

6. Debtor's customers have wire transfer templates which include the Account and have failed in the past altering the templates. Debtor tried to move its accounts to First Green Bank before, and the disruption to the payments from its customers was so great it cancelled the transfer. To require new bank accounts now, along with starting a chapter 11, would risk undermining the Debtor's ability to collect from its customers.

7. Pursuant to the standard Chapter 11 operating practice, Debtor is required, among other things, to open new bank accounts upon the filing of the bankruptcy petition and designate such accounts as "Debtor-in-Possession" on the respective account signature cards. However, Debtor seeks a waiver of any requirements which mandate, among other things, that the Account be closed and that new post-petition bank accounts be opened. If any such requirements were enforced in the instant chapter 11 case, the requirements would cause disruption of Debtor's business and impair its ability to reorganize.

8. Debtor believes that its transition into Chapter 11 will be smoother and more orderly, with a minimum of disruption to operations, if the bank account is maintained with the

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<sup>1</sup> Debtor also maintains an account at First Green Bank which had a balance of \$204.58 on the Petition Date and an account at United Southern Bank which had a balance \$1,037.46. Debtor will close these accounts. Debtor has no payroll account as it uses a payroll service.

same account number following the commencement of this case.

9. By preserving business continuity and avoiding the disruption and delay that would necessarily result from closing the bank account and opening new accounts, all parties in interest, including employees, vendors, and customers will be best served. The disruption that would otherwise result, absent the relief requested herein, would ill-serve Debtor's rehabilitative efforts.

10. Debtor requests that the Account be deemed a debtor-in-possession account and that Debtor be authorized to maintain and continue to use the Account in the same manner as such account was utilized prior to the Petition Date.

11. Debtor agrees to write "Debtor in Possession" on its bank account signature cards and to provide the Bankruptcy Administrator with bank statements for the previous six (6) months.

12. Debtor seeks authorization for TD to continue to service and administer the applicable Account as an account of Debtor as a debtor-in-possession without interruption and in the usual and ordinary course, and to receive, process and honor and pay any and all checks, drafts, wires, or automated clearing house transfers ("ACH Transfers") drawn on the Account after the Petition Date by the holders or makers thereof, as the case may be. Debtor also seeks authority to reimburse TD for any claim arising prior to or after the Petition Date in connection with customer checks deposited with TD which have been dishonored or returned for insufficient funds in the applicable customer account; provided, however, that, in addition to the requirements thereof, any checks, drafts, wires, or ACH Transfers drawn or issued by Debtor before the Petition Date shall be timely honored by TD to the extent necessary to comply with any order(s) of this Court authorizing payment of certain prepetition claims, unless TD is instructed by Debtor to stop payment on or otherwise dishonor such check, draft, wire, or ACH Transfer.

13. Notwithstanding anything to the contrary in any other order issued by this Court,

Debtor seeks authorization for TD to accept and honor all representations from Debtor as to which checks, drafts, wires, or ACH Transfers should be honored or dishonored consistent with any order(s) of this Court, whether the checks, drafts, wires, or ACH Transfers are dated prior to, on, or subsequent to the Petition Date, and whether or not TD believes the payment is or is not authorized by any order(s) of the Court. TD shall have no duty to inquire as to whether such payments are authorized by any order(s) of this Court and no liability to any party on account of following Debtor's instructions.

14. Debtor seeks authorization for Debtor and TD to continue to perform pursuant to the terms of any pre-petition agreements that may exist between them and for Debtor to pay TD any fees, expenses, or other amounts due in connection with such agreements arising prior to or after the Petition Date. The parties to such agreements shall continue to enjoy the rights and remedies afforded them under such agreements, except to the extent modified by the terms of the order or by operation of the Bankruptcy Code.

WHEREFORE, the Debtor respectfully requests entry of an order authorizing the use and maintenance of the Account postpetition and granting such other and further relief as is just and equitable.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail and/or CM/ECF to all creditors listed on the attached mailing matrix this 24th day of August, 2015.

/s/ Michael A. Nardella  
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